

ABRAM H. KREIDER

IBLA 81-634

Decided August 18, 1981

Appeal from a decision of the California State Office, Bureau of Land Management, declaring mining claims null and void. CA MC 87433 through CA MC 87453.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment -- Mining Claims: Location -- Mining Claims: Recordation -- National Park Service

Pursuant to 43 CFR 3833.1-1 and 36 CFR 9.5(a), an unpatented mining claim in any national park system unit in existence on Sept. 28, 1976, which was not recorded on or before Sept. 28, 1977, in accordance with the Federal Register notice (41 FR 46357 (Oct. 20, 1976)), or 36 CFR 9.5 is, pursuant to 16 U.S.C. § 1907 (1976), conclusively presumed to be abandoned and void.

2. Notice: Generally -- Regulations: Generally -- Statutes

All persons dealing with the Government are presumed to have knowledge of duly promulgated statutes and regulations.

APPEARANCES: Abram H. Kreider, pro se.

OPINION BY CHIEF ADMINISTRATIVE JUDGE PARRETTE

Abram H. Kreider, president of Morning Glory Mines, Inc., has appealed from a decision of the California State Office, Bureau of Land Management (BLM), declaring the Morning Glory mining claims Nos. 1

through 7 and 9, and Morning Glory millsites Nos. 1 and 3, 1/ null and void for failure to record the claims timely pursuant to the Mining in the Parks Act, section 8, 16 U.S.C. § 1907 (1976), 90 Stat. 1343, and its implementing regulations, 36 CFR 9.5(a) and 43 CFR 3833.1-1. The claims are located within the Death Valley National Monument, administered by the National Park Service.

BLM's rejection of appellant's filings was prompted by a letter from the Superintendent of the Death Valley National Monument, pointing out that filings were not received timely.

[1] Sections 43 CFR 3833.1-1 and 36 CFR 9.5(a) of the regulations provide that any unpatented mining claim 2/ located within the National Park system, in existence on September 28, 1976, which was not recorded on or before September 28, 1977, in accordance with the notice of October 20, 1976 (41 FR 46357) is, pursuant to section 8 of the Act of September 28, 1976 (16 U.S.C. § 1907 (1976)), conclusively presumed to be abandoned and shall be void.

[2] Appellant's statement of reasons states that he had attempted to comply with the regulations to the best of his knowledge and ability, but had found the requirements for rerecording confusing. Appellant's confusion, however, does not relieve him of statutory requirements. All persons dealing with the Government are presumed to have knowledge of

1/ While the BLM decision covers 21 claims, there appear to be only 10 distinct claims:

- (1) Silver Blossom 1 (CA MC 87434) and Morning Glory #1 (amended) (CA MC 87433).
- (2) Silver Blossom 2 (CA MC 87436) and Morning Glory #2 (amended) (CA MC 87435).
- (3) Silver Blossom 3 (CA MC 87439), Morning Glory #3 (amended) (CA MC 87437), and Morning Glory #3 (amended) (CA MC 87438).
- (4) Silver Blossom 4 (CA MC 87442), Morning Glory #4 (amended) (CA MC 87440), and Morning Glory #4 (amended) (CA MC 87441).
- (5) Silver Blossom 5 (CA MC 87445), Morning Glory #5 (amended) (CA MC 87443), and Morning Glory #5 (amended) (CA MC 87444).
- (6) Morning Glory No. 6 (CA MC 87447) and Morning Glory #6 (amended) (CA MC 87446).
- (7) Morning Glory No. 7 (CA MC 87449) and Morning Glory #7 (amended) (CA MC 87448).
- (8) Morning Glory No. 9 (CA MC 87451) and Morning Glory #9 (amended) (CA MC 87450).
- (9) Morning Glory Mill Site #1 (CA MC 87452).
- (10) Morning Glory Mill Site #3 (CA MC 87453).

2/ 36 CFR 9.2(k) defines claim as: Any valid, patented or unpatented mining claim, millsite, or tunnel site.

duly promulgated statutes and regulations. Gordon L. Cooper, 51 IBLA 191 (1980). The mandate of the statute does not permit exceptions to be made based upon appellant's misunderstanding of the law. Id. at 192. 3/

When appellant failed to file for recordation with the Superintendent of the Park on or before September 28, 1977, as required by statute, the claims were automatically terminated as a matter of law and were properly held to be abandoned and void. Gordon L. Cooper, supra; Robert R. Eisenman, 50 IBLA 145 (1980).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Bernard V. Parrette
Chief Administrative Judge

We concur:

James L. Burski
Administrative Judge

C. Randall Grant, Jr.
Administrative Judge

3/ It should be noted that among the enclosures included with appellant's statement of reasons is a copy of a letter dated Feb. 16, 1977, that he received from the National Park Service, which provided him with copies of the applicable regulations and specifically called attention to the filing requirements under the new Act.

